

REMARKS

An Office Action was mailed in the above-captioned application on September 14, 2004. In such Office Action claims 1-7 were pending. Claims 1, 3, 4, 6, and 7 were rejected. Claims 2 and 5 were objected to. This Amendment and Remarks document is submitted in response to said Office Action.

Specification

The disclosure has been objected to as the filing date of the priority document is inconsistent and no priority document is present in the application. The correct filing date of the priority document is December 6, 2002. A corrected declaration showing the priority date of December 6, 2002 is being prepared and will be submitted when complete. A certified copy of the priority document is enclosed herewith.

Claim Objections

Claims 4 and 6 have been objected to as being an improper form of a multiple dependent claim. Claims 4 and 6 were not intended to be multiple dependent claims. Claims 4 and 6 have been amended and are now clearly dependent only upon a single claim.

The Rejection under 35 U.S.C. § 112, second paragraph

The Examiner has rejected Claims 1, 3, 4, 6, and 7 under 35 U.S.C. § 112, second paragraph. The second paragraph of Section 112 requires that the claims set out and circumscribe a particular area which applicants regard as their invention with a *reasonable* degree of precision and particularity.

Specifically, the rejection indicates that the value of R2 as “the residue of” a 5 or 6-membered heteroaryl ring in Claim 1 is indefinite. Applicant respectfully traverses this rejection. The plain meaning of “residue” is “something that remains after a part is taken, separated, or designated; specifically : a constituent structural unit (as a group or monomer) of a usually complex molecule <amino acid residues in a protein>.” (Source: Merriam-Webster Medical Dictionary, © 2002 Merriam-Webster, Inc.). Another source defines residue in the chemical arts as “[t]hat which remains of a molecule after the removal of a portion of its

constituents; hence, an atom or group regarded as a portion of a molecule; -- used as nearly equivalent to radical, but in a more general sense.” (Source: Webster's Revised Unabridged Dictionary, © 1996, 1998 MICRA, Inc.).

The clear meaning of residue in claim 1, therefore, is that R2 makes up the remainder of a 5 or 6-membered heteroaryl ring of which the two carbons bonded to R2 are a part. Applicant believes the claim is definite as written and requests reconsideration.

The rejection indicates that claim 1 recites pharmaceutically acceptable salts, which is a narrower limitation of the broad range of salts, which is indefinite. Claim 1 has been amended to delete the recitation “preferably pharmaceutically acceptable salts thereof.”

The rejection states that Claim 3 recites the limitation of “substance” in claim 1 for which there is no antecedent basis. Claim 3 has been amended to delete the recitation “substance or.”

The rejection states that the recitation “according to claim 1” in claim 4 is unnecessary. This recitation has been deleted.

The rejection states that the recitation “according to claim 1” in claim 6 is unnecessary. This recitation has been deleted.

The rejection states that formula I is missing in claim 7. Claim 7 has been amended to refer to “formula (I) of Claim 1.”

The rejection states that “or an activated derivative thereof” is indefinite. This recitation has been deleted from Claim 7.

Applicant believes the amendments are sufficient to overcome the rejections. Reconsideration is respectfully requested.

Closing Remarks

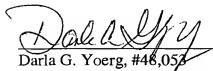
Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The

undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: January 12, 2005



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Enclosure (priority document)

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